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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,030	07/21/2003	Scott A. Melton	2206.68155	5108

24978 7590 12/02/2004

GREER, BURNS & CRAIN
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25TH FLOOR
CHICAGO, IL 60606

EXAMINER	
FIGUEROA, FELIX O	

ART UNIT	PAPER NUMBER
2833	

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/624,030	MELTON ET AL.	
	Examiner	Art Unit	
	Felix O. Figueroa	2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 October 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-14 and 17-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-14 and 17-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 19, 2004 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 6-14 and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daddono (US 6,149,445) in view of Hill (US 5,547,388).

Daddono discloses an electrical plug protector for use on an electrical plug (110) with a cord, comprising: an enclosure portion (100) with members (122,142) moveable between an open position and a closed position; and when in the closed position the enclosure portion completely encloses the plug for preventing unwanted engagement of the plug with a socket and is configured to be openable without the use of tools (at least the embodiment of Fig.2).

Daddono discloses substantially the claimed invention except for an external cord tethering portion. Hill teaches an electrical plug protector (10) with an external cord tethering portion (14) for detachably engaging a cord (36), associated with plug protector and configured for encircling the cord; to prevent the protector from being lost when the plug is accessed by a user (col. 3 lines 52-56). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the protector of Daddono with an external cord tethering portion associated with at least one of the members, as taught by Hill, to prevent the protector from being lost.

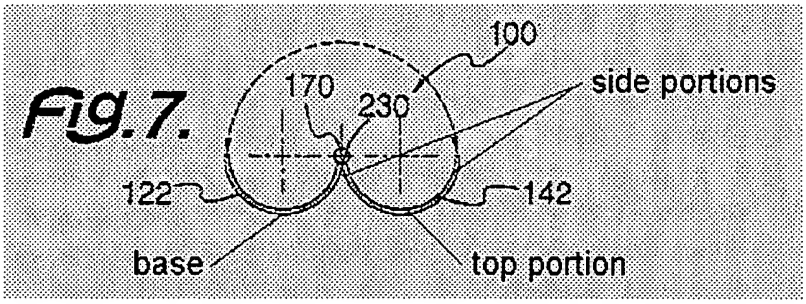
Regarding claim 2, Daddono discloses at least two members (122,142).

Regarding claim 3, Daddono discloses the open position (Fig.2) being configured to make the plug accessible.

Regarding claim 4, Hill discloses the cord tethering portion being provided with a clasp (28) configured for detachably encircling the cord.

Regarding claim 6, Daddono discloses the members are latchable to each other (by 192,194).

Regarding claim 7, Daddono discloses the electrical plug protector including a top portion, side portions, and a base (see following figure, for example).



Regarding claim 8, Daddono discloses the enclosure being configured to taper (as shown in Fig.2) on the side portions towards the cord to conform to an overall shape of the plug.

Regarding claim 9, Daddono, as modified by Hill, discloses the tethering portion being configured to move slidably along the cord independent of the members being in the open or the closed position (see Figures 5 and 6 of Hill).

Regarding claim 10, Daddono shows at least one member having a solid outer wall.

Regarding claim 11, Daddono discloses at least one latch (194) forming a male connection piece on one of the members and configured to be latchable to a corresponding female formation (192) located on a second of the members.

Regarding claim 12, Daddono discloses the members being connected to each other by at least one hinge (170).

Regarding claim 13, Daddono discloses the at least one hinge being located at the base of the plug protector (see the previously presented figure).

Regarding claim 14, Daddono discloses the at least one hinge is located at one of the side portions of the plug protector (see the previously presented figure).

Regarding claim 17, Hill discloses the cord tethering portion including at least one securing member (24) hingedly connected (at 32) to a fixed member (26).

Regarding claim 18, Daddono discloses an electrical plug protector for use on an electrical plug (110) with a cord (112), comprising: an enclosure portion (10) including at least two members (122,142) each defined by a top portion, side portions, and a base

(see following figures), the members moveable between an open position (Fig.2) and a closed position; the enclosure portion being configured to taper on the side portions towards the cord to substantially conform to the overall shape of the plug thereby allowing the enclosure to contain only the plug of a plug-socket connection, a hinge mechanism (170) connecting the members to each other; and when in the closed position, the enclosure portion completely encloses the plug for preventing unwanted engagement of the plug with a socket and being configured to be openable without the use of tools.

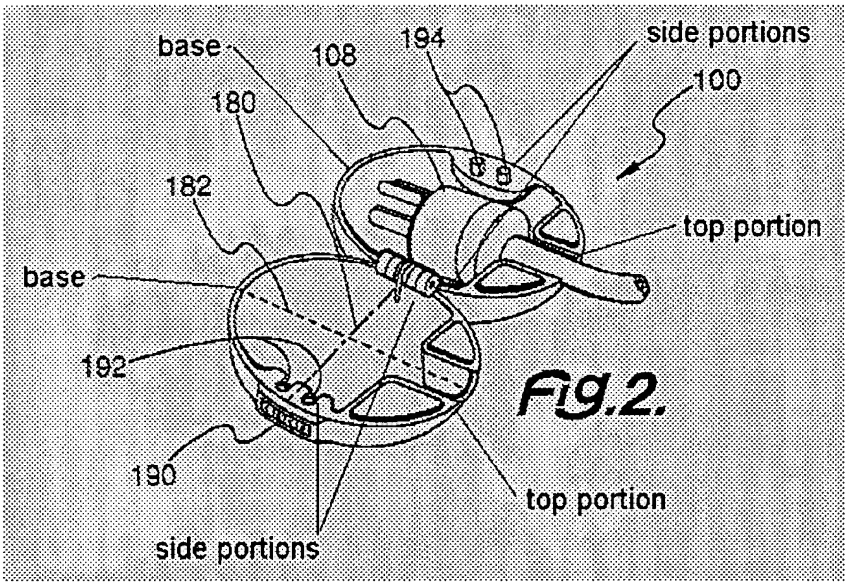


Fig.2.

Daddono discloses substantially the claimed invention except for an external cord tethering portion. Hill teaches an electrical plug protector (10) with an external cord tethering portion (14) for detachably engaging a cord (36), associated with plug protector and configured for encircling the cord; to prevent the protector from being lost when the plug is accessed by a user (col. 3 lines 52-56). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to form

the protector of Daddono with an external cord tethering portion associated with at least one of the members, as taught by Hill, to prevent the protector from being lost.

Regarding claim 19, Daddono, as modified, discloses substantially the claimed invention except for the location of the hinge mechanism. However, it would have been an obvious matter of design preference to form the hinge mechanism at the base portion, since applicant has not disclosed that such location solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with hinge mechanism on the side portions, as shown by Daddono. Absent any convincing showing of the criticality of the design, this particular design is nothing more than the inventor's choice without thereby departing from the scope of the invention. *In re Dailey, 149 USPQ 47 (CCPA 1976).*

Regarding claim 20, Daddono discloses the hinge mechanism is located on one of the side portions of the plug protector.

Regarding claim 21, Daddono discloses an electrical plug protector for use on an electrical plug (110) with a cord (112), comprising: an enclosure portion (100) with members (122,142) moveable between an open position (Fig.2) and a closed position, the enclosure portion includes at least two members (122,142) each defined by a top portion, side portions, and a base (see previous figure regarding claim 18); the enclosure portion is configured to taper on the side portions towards the cord to substantially conform to the overall shape of the plug thereby allowing the enclosure to contain only the plug of a plug-socket connection; the enclosure portion substantially restricts axial, lateral and horizontal movement of the cord and plug; and when in the

closed position, the enclosure portion completely encloses the plug for preventing unwanted engagement of the plug with a socket and is configured to be openable without the use of tools.

Daddono discloses substantially the claimed invention except for an external cord tethering portion. Hill teaches an electrical plug protector (10) with an external cord tethering portion (14) for detachably engaging a cord (36), associated with plug protector and configured for encircling the cord; and a clasp (28) located at the tethering portion for detachably encircling the cord, thereby allowing the enclosure portion to move slideably along the cord when the clasp is in a locked position and the enclosure portion is in the open position, to prevent the protector from being lost when the plug is accessed by a user (col. 3 lines 52-56). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the protector of Daddono with an external cord tethering portion associated with at least one of the members, as taught by Hill, to prevent the protector from being lost.

Response to Arguments

Applicant's arguments with respect to claims 1-4,6-14 and 17-21 have been considered but are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Felix O. Figueroa whose telephone number is (571) 272-2003. The examiner can normally be reached on Mon.-Fri., 10:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A. Bradley can be reached on (571) 272-2800 Ext. 33. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ffr

Felix O. Figueroa